

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>TORREY TYREE LEWIS</b>	<b>: CIVIL ACTION</b>
	<b>:</b>
<b>v.</b>	<b>: NO. 19-4408</b>
	<b>:</b>
<b>COMMONWEALTH OF</b>	<b>:</b>
<b>PENNSYLVANIA, <i>et al.</i></b>	<b>:</b>

**ORDER**

**AND NOW**, this 23<sup>rd</sup> day of January 2020, upon considering the served Defendants'<sup>1</sup> Motions to dismiss (ECF Doc. Nos. 8, 10), absent a timely response, and for reasons in the accompanying Memorandum, it is **ORDERED** the served Defendants' Motions to dismiss (ECF Doc. Nos. 8, 10) are **GRANTED**:

1. Plaintiff's claims against Judges Kelly, Scanlon, and Krull, Attorneys Gorbey and Wagner, as well as his claims against each of the served Defendants barred by *Heck v. Humphrey*,<sup>2</sup> are dismissed with prejudice as an amendment to allege claims against judges and prosecutors arising from two criminal convictions in state court is futile;

2. Plaintiff's remaining claims against Delaware County and Detective Tyler are dismissed without prejudice to him filing an amended complaint possibly alleging claims not barred by immunities or *Heck v. Humphrey* no later **February 24, 2020**, and absent timely amendment, we will dismiss Delaware County and Detective Tyler with prejudice;


---

<sup>1</sup> Counsel for Defendants Delaware County, Delaware County, Delaware County Court of Common Pleas Judges Anthony Scanlon, Kevin Kelly, and Magisterial District Justice Deborah Krull, Delaware County prosecutors Meaghan Rose Wagner and Gina Gorbey, and Delaware County detective David Tyler entered an appearance accepting service and moving to dismiss.

<sup>2</sup> *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

3. Plaintiff's claims against the Commonwealth await service of the summons and Complaint by **February 19, 2020**; and,

4. To proceed against Attorney Gebhart, Plaintiff shall, on or before **February 19, 2020**, file an affidavit of service explaining how and when he served the summons and complaint upon Attorney Gebhart.

  
\_\_\_\_\_  
KEARNEY, J.